Decision **PROPOSED DECISION OF ALJ GAMSON** (Mailed 5/25/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2009-2011 Energy Efficiency Program Plans and Associated Public Goods Charge (PGC) and Procurement Funding Requests.	Application 08-07-021 (Filed July 21, 2008)
And Related Matters.	Application 08-07-022 Application 08-07-023 Application 08-07-031

DECISION APPROVING PETITION FOR MODIFICATION OF DECISION 09-09-047, WITH MODIFICATIONS

1. Summary

This decision grants the Petition for Modification of Decision 09-09-047 by Southern California Edison Company and Southern California Gas Company to continue the Palm Desert Demonstration Partnership (Partnership) regarding energy efficiency and related programs for a limited period ~~to~~ at a reduced budget level to allow consideration of an Application regarding the future of the Partnership~~.~~, if an Application is filed by July 16, 2010.

2. Background

The Commission initially approved the Palm Desert Demonstration Partnership (Partnership) among Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), the Energy Coalition and the City of Palm Desert in Decision (D.) 06-12-013. SCE and its partners proposed to deliver these additional, incremental program offerings:

- A suite of comprehensive and cost-effective packages of Demand-Side Management measures and educational and behavioral changes that also incorporate emerging technologies as they become commercially available for Heating, Ventilation and Air Conditioning (HVAC), lighting, refrigeration, and pumping;
- A focused, comprehensive HVAC program that maximizes on-peak energy savings and demand reduction by focusing on early replacement through higher incentives offered through special seasonal "sales" and aggressive promotion of services;
- Closely coordinated local education, training, marketing and outreach (including neighborhood "sweeps" and events) in which the partners work together to educate consumers and co-promote programs;
- Packaging financial incentive bundles that marry cost-effective utility incentive levels with various financing packages to facilitate customers' participation in energy efficiency programs; and
- Tying together Palm Desert's new energy codes and mandates that go beyond Title-24 with utility-offered technical assistance and incentives to facilitate compliance.

D.05-09-043 was modified to authorize SCE to record up to $14 million (out of $18 million requested) in SCE's Procurement Energy Efficiency Balancing Account (PEEBA) from existing unspent, uncommitted energy efficiency monies to fund the requested Palm Desert Project expenditures during 2006-2008. The Commission cautioned, however, that it would "carefully consider the results of ex post Evaluation, Measurement and Verification (EM&V) when it considers funding requests for this program during the 2009-2011 program cycle." D.06-12-013 at 16.

As part of their 2008 Applications for three-year energy efficiency portfolios, SCE and SoCalGas requested a total of $23 million for the Palm Desert program for the current (2010-2012) energy efficiency program cycle; however, this request was made before completion of the required ex post EM&V of the Palm Desert program's energy savings to date. As part of D.09-09-047, the Commission's September 24, 2009 decision authorizing the state's investor-owned energy utilities' 2010 through 2012 energy efficiency portfolios, the Commission included limited funding for SCE's and SoCalGas' (Joint Utilities) Partnership through June 30, 2010, and directed the Joint Utilities to request any additional extension of the Partnership beyond June through a separate Application. D.09-09-047, Ordering Paragraph (OP) 39. The Commission authorized $3.9 million in funding for the first six months of 2010 in order to allow the Partnership to continue until an evaluation of this pilot program could be completed and the new Application could be considered.

On April 22, 2010, SCE and SoCalGas jointly filed a Petition for Modification of D.09-09-047. On April 27, 2010, Administrative Law Judge (ALJ) Gamson issued a Ruling shortening the comment period from 30 days to 15 days to allow the Commission the opportunity to consider the Petition before authorization for the Partnership would expire on June 30, 2010. Comments were filed by the Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) on May 7, 2010.

3. Positions of Parties

The Joint Utilities request that the Commission modify D.09-09-047 to authorize continuation of the Partnership on a month-to-month basis, at the currently authorized budget levels[1] of approximately $578,000 per month for SCE and $72,000 per month for SoCalGas until the Commission issues a decision on the Joint Utilities' forthcoming Application for continuation of the Partnership for the remainder of the 2010-2012 cycle. The Joint Utilities have not yet filed their Application for continuation of the Partnership.

The Joint Utilities state they are awaiting the pending release of the Partnership EM&V process evaluation before filing their Application to continue the Partnership beyond June 30, 2010. The evaluation was expected to be completed in January 2010, but it is not yet complete. They argue that granting the requested modification/continuation will avoid interruption of the Partnership until the Commission can make a fully informed decision, based on the forthcoming EM&V studies and the not-yet-filed Joint Utilities' Application.

SCE and SoCalGas seek to utilize any portion of the previously authorized $3.47 and $0.43 million, respectively, not yet spent until those funds are depleted before undertaking any fundshifting.[2] SCE asks to then fund the continuation of this Partnership using the fundshifting authority granted in D.09-09-047, utilizing currently authorized 2010-2012 energy efficiency funding, and says it will not require incremental funding. SoCalGas requests that any additional funds required to maintain the program on a month-to-month basis (after the $0.43 million authorized for 2010 has been exhausted) be authorized to come from its

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[1] D.09-09-047, OP 39, authorized SCE and SoCalGas interim funding of $3.9 million. D.09-09-047 at 271, specifies this funding is for the first six months of the 2010-2012 cycle. This equates to $3.47 million for SCE and $0.43 million for SoCalGas for a six month period, or $578,000 and $72,000 per month for SCE and SoCalGas, respectively.

[2] Fundshifting among energy efficiency programs is allowed per rules set forth in the Commission's Energy Efficiency Policy Manual.

unspent uncommitted monies from the 1998-2005 energy efficiency program cycles recorded in its Conservation Expense Account. These funds will be incremental to the already approved SoCalGas 2010-2012 energy efficiency program portfolio, but will not have any rate or revenue impacts.

TURN urges the Commission to deny the Petition. TURN contends the Joint Utilities failed to present the type of showing that the Commission required in order for the pilot to continue beyond June 30, 2010, and the high costs per savings achieved experienced to date warrant ending the pilot. TURN claims Joint Utilities have now had more than three years to demonstrate that their pilot project is cost-effective, yet they have failed to do so.

TURN argues that, since the application to continue the Partnership beyond June 30, 2010 would not be prepared until the Energy Division EM&V report is finalized, granting the Joint Utilities the relief they seek here would give them the incentive to delay the final Energy Division EM&V report, and their ensuing application. This would occur because interim funding would continue without a specified end date.

Should the Commission decide to continue funding this program, TURN proposes we should do so at a reduced level until the Joint Utilities have complied to the Commission's satisfaction with the directives in D.09-09-047. TURN points out that the majority of partnerships in California have a budget less than $19 per capita, with a substantial number budgeted at less than $8 per capita.[3] Therefore, TURN suggests that if the Commission were to use the $19 per capita figure that is the high water mark for most government partnership programs and apply that to the six months remaining in 2010, it would yield a monthly budget of approximately $161,500 (51,000 residents times $19 divided by six months).

DRA opposes the request to continue interim funding for the Palm Desert program and requests that the Commission deny the Petition. If the Commission is nevertheless inclined to grant the Petition, DRA urges the Commission to not authorize any additional interim funding.

DRA contends that while the Palm Desert program process evaluation was not released as originally scheduled, there was sufficient EM&V data available for Petitioners to develop an application that would permit the Commission to reach a decision on this matter. Moreover, DRA (and TURN) contends that EM&V data available thus far illustrate poor performance for the Palm Desert program, so the risk of disrupting a successful program by denying further interim funding is minimal.

4. Discussion

D.09-09-047 at 269-270 stated:

> While we might reasonably expect there to be less savings per dollar spent when innovative measures are being piloted, the preliminary review of program data in the Commission's 2006-2008 impact evaluation has shown that the majority of measures found in the SCE portion of the Palm Desert program are not innovative measures, but rather are standard measures that are offered routinely by SCE in other energy efficiency programs, with the exception of the early retirement of residential air conditioning systems.

[3] TURN estimates the Partnership's cost per capita at $318 for 2006-2008.

With these concerns, and the lack of final ex post EM&V reports on the Partnership, the Commission declined to make the Partnership a part of SCE's and SoCalGas' 2010-2012 energy efficiency portfolios.

In D.09-09-047 at 271, the Commission stated that Joint Utilities would need to reapply for any funding if they wished to continue the Partnership beyond the first six months of 2010. The decision specified that an application to extend the program would need to provide detailed information documenting the Partnership's performance to date, as well as addressing specific pilot project criteria set by the Commission for all pilot projects.[4]

No application has been filed to date. Joint Utilities are correct that the process evaluation[5] for the Partnership had not yet been finalized as of the date of the Petition. However, a draft was issued by Energy Division on May 6, 2010 and a final report was ~~expected~~issued on June 1, 2010. The draft process evaluation was designed to address the following research topics:

- What measures were installed and what were the energy and demand accomplishments of the program relative to objectives stated in the program planning documents?
- What were the costs of the program and how did this compare to other programs?

[4] D.09-09-047 at 271, citing Section 4.3 (at 48-49). The criteria applicable to all pilot programs included ten specific elements which address cost-effectiveness, innovative design and partnerships, baseline metrics, methodologies for testing cost-effectiveness, as well as a budget and timeframe for completing the Project and obtaining results within a portfolio cycle.

[5] The formal title of the process evaluation is "Final Palm Desert Partnership and Demonstration Project Implementation Assessment." This study covers the program years 2007 and 2008. The study can be found at http://www.energydataweb.com/cpuc.

- What was innovative about the program and what can be replicated elsewhere?

We also note that the process evaluation (which has been available to the utilities for several months in draft form) is not the only EM&V available on the Partnership. The ex post Impact Evaluation was final and publicly posted on the Commission's Evaluation web site on February 8, 2010, a full 2 1/2 months before SCE and SoCalGas filed their Petition to continue funding.[~~5~~6]

While DRA is correct that significant evaluation data about the Partnership is already available, we agree with Joint Utilities that it would be difficult for us to fully consider an Application to continue the Partnership without a completed process evaluation. It is not clear that the Joint Utilities could not have filed an Application before the process evaluation was complete, since they have had access to other evaluation data ahead of the final report. Further, it is not clear that the Joint Utilities in fact will file a new Application to extend the Partnership; they may choose not to do so after reviewing the evaluation results, or may choose to end the Partnership for other reasons. For these reasons, we will not grant the Joint Utilities' request for open-ended month-to-month continuation of the Partnership.

Nevertheless, we see little harm in extending the Partnership for a limited time to allow consideration of a new application (if one is indeed forthcoming). Joint Utilities seek a month-to-month extension of the Partnership, but without a date certain for the end date of any extension (except for the date of Commission

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[~~5~~6] The final impact evaluation report is posted at the following site.

http://www.energydataweb.com/cpucFiles/topics/10/Final_0608_LGP_Impact_Evaluation_Report_020810.pdf

Footnote continued on next page

action on a continuation application). We will grant the Petition to extend the Partnership, subject to the filing of the application anticipated in D.09-09-047, until no later than December 31, 2010 or the date of a decision on the continuation application whichever comes first. If no such Application is filed by 45 days after the Energy Division process evaluation report becomes final, the authority for the Partnership ends on that date. In any case, the extension granted by this decision ends no later than December 31, 2010.[~~6~~7]

DRA advocates no additional funding for any extension of the Partnership. TURN calls for decreased funding. Joint Utilities do not seek additional or incremental funding for the extension of the Partnership, except for the use of unspent energy efficiency funds. For the Partnership to continue, it must be adequately funded. However, D.09-09-047 casts some doubt on the ongoing value of the partnership. In order to give us time to consider a new application which may be filed, but also protect ratepayers, we will grant the authority to use the funds at a level of 50% of the amount requested.

The fact that we are granting the Petition, with modifications, does not indicate any judgment on the merits of the Partnership, nor does it prejudge the evaluation of the Partnership. Further, this decision is not intended to prejudge any forthcoming application for continuation of the Partnership.

The Palm Desert Pilot is reported in Chapter 8.

[~~6~~7] The Energy Division process evaluation ~~is due to be~~was finalized June 1, 2010. Per this decision, an Application must be filed to continue the Partnership no later than 45 days later, or July 16, 2010. This provides approximately five months to consider the Application and place a proposed decision on the Commission's Agenda before the authority in this decision expires at the end of 2010.

5. Categorization and Assignment of Proceeding

This proceeding is categorized as Ratesetting. The assigned Commissioner is Dian M. Grueneich and the assigned ALJ is David M. Gamson.

6. Comments on Proposed Decision

The proposed decision of ALJ Gamson in this matter was mailed on May 25, 2010 to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ~~_______________, and reply comments were filed on _________________ by _________________________~~June 14, 2010 by SCE, SoCalGas, and TURN.

Findings of Fact

1. The Partnership among SCE, SoCalGas, the Energy Coalition and the City of Palm Desert was initially approved in D.06-12-013 with a budget of $14 million for two years.

2. D.06-12-013 required careful consideration of the results of ex post EM&V when reviewing funding requests for the Partnership during the next energy efficiency program cycle, which authorized energy efficiency portfolios for 2010-2012.

3. D.09-09-047 included limited funding for the Partnership through June 30, 2010, and directed SCE and SoCalGas to request any additional extension of the Partnership beyond that date through a separate Application.

4. No final process evaluation of the Partnership had been completed as of the date of this Petition. An ex post impact evaluation was finalized on February 8, 2010.

5. Per-capita costs of the Partnership are estimated to be higher than for other local governmental partnership programs.

6. D.09-09-047 casts some doubt on the value of the Partnership to ratepayers.

7. Extending the Partnership until an Application incorporating evaluation results can be considered would allow continuity of the Partnership in the event the Commission decides to continue it.

Conclusions of Law

1. It is reasonable to continue the Partnership for a limited period of time at a 50% reduced budget level in order to allow continuity of the Partnership in the event the Commission decides to continue it.

2. Continuation of the Partnership should be limited to the amount of time necessary to consider a new Application for continuation of the Partnership, should one be filed.

O R D E R

IT IS ORDERED that:

1. Ordering Paragraph 39 of Decision (D.) 09-09-047 is modified to authorize continuation of the Palm Desert Demonstration Partnership on a month-to-month basis, at budget levels of $289,000 per month for Southern California Edison Company and $36,000 per month for Southern California Gas Company. Southern California Edison Company and Southern California Gas Company shall utilize any portion of the previously authorized $3.47 million and $0.43 million, respectively, not yet spent until those funds are depleted before undertaking any fundshifting. Southern California Edison Company shall then fund the continuation of the Palm Desert Demonstration Partnership using the fundshifting authority granted in D.09-09-047. Southern California Gas Company shall use any additional funds required to maintain the program on a month-to-month basis (after the $0.43 million authorized for 2010 has been

exhausted) from its unspent uncommitted monies from the 1998-2005 energy efficiency program cycles recorded in its Conservation Expense Account. This authorization terminates as provided in Ordering Paragraph 2 or Ordering Paragraph 3 of this decision, whichever is applicable.

2. If Southern California Edison Company and Southern California Gas Company file an Application to continue the Palm Desert Demonstration Partnership within 45 days after Energy Division issues a final Process Evaluation of the Partnership, the Partnership shall remain in effect at the funding levels authorized in Ordering Paragraph 1 of this decision until the Commission issues a decision on the Application, or until December 31, 2010, whichever comes first.

3. If Southern California Edison Company and Southern California Gas Company do not file an Application to continue the Palm Desert Demonstration Partnership by ~~the 45th day after Energy Division issues a final Process Evaluation of the Partnership,~~July 16, 2010, authority for the Partnership shall end on that day.

4. Applications (A.) 08-07-021, A.08-07-022, A.08-07-023, and A.08-07-031 are closed.

This order is effective today.

Dated ______________________________, at San Francisco, California.

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